

Message

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**From:** Hurlid, Kathy [Hurlid.Kathy@epa.gov]  
**Sent:** 4/9/2019 7:35:04 PM  
**To:** Kupchan, Simma [Kupchan.Simma@epa.gov]  
**CC:** Goodin, John [Goodin.John@epa.gov]; McDavit, Michael W. [Mcdavit.Michael@epa.gov]; Eisenberg, Mindy [Eisenberg.Mindy@epa.gov]; Frazer, Brian [Frazer.Brian@epa.gov]  
**Subject:** RE: Use this version - RE: Florida letter  
**Attachments:** Draft OGC letter to FL 4.8\_KH.docx

Simma, Mike is unable to review and Mindy is out, so I've been asked to send my comments to you. Give a call if you have any questions. Kathy

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**From:** Kupchan, Simma  
**Sent:** Monday, April 08, 2019 5:10 PM  
**To:** Hurlid, Kathy <Hurlid.Kathy@epa.gov>  
**Cc:** Hicks, Matt <Hicks.Matthew@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>; Purify, Johnnie <Purify.Johnnie@epa.gov>; McGill, Thomas <Mcgill.Thomas@epa.gov>; Palmer, Leif <Palmer.Leif@epa.gov>; Gettle, Jeaneanne <Gettle.Jeaneanne@epa.gov>; Frazer, Brian <Frazer.Brian@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Goodin, John <Goodin.John@epa.gov>; McDavit, Michael W. <Mcdavit.Michael@epa.gov>  
**Subject:** Use this version - RE: Florida letter

Sorry – use this version. Thanks!

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

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**From:** Kupchan, Simma  
**Sent:** Monday, April 8, 2019 5:07 PM  
**To:** Hurlid, Kathy <Hurlid.Kathy@epa.gov>  
**Cc:** Hicks, Matt <Hicks.Matthew@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>; Purify, Johnnie <Purify.Johnnie@epa.gov>; McGill, Thomas <Mcgill.Thomas@epa.gov>; Palmer, Leif <Palmer.Leif@epa.gov>; Gettle, Jeaneanne <Gettle.Jeaneanne@epa.gov>; Frazer, Brian <Frazer.Brian@epa.gov>; Carrie Wehling <Wehling.Carrie@epa.gov>; Goodin, John <Goodin.John@epa.gov>; McDavit, Michael W. <Mcdavit.Michael@epa.gov>  
**Subject:** RE: Florida letter  
**Importance:** High

All,

Attached is a draft letter to Florida, as discussed below. If you are able to **provide comments tomorrow (Tuesday)** that would be greatly appreciated. Please let me know if you would like to comment but need more time.

This draft incorporates helpful feedback from Matt Hicks and Carrie Wehling.

As you know, please keep this email and draft a **close hold**; do not circulate unless necessary.

Thanks for your attention to this matter!

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

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**From:** Hurlid, Kathy  
**Sent:** Thursday, April 4, 2019 11:59 AM  
**To:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>  
**Cc:** Hicks, Matt <[Hicks.Matthew@epa.gov](mailto:Hicks.Matthew@epa.gov)>; Laycock, Kelly <[Laycock.Kelly@epa.gov](mailto:Laycock.Kelly@epa.gov)>; Ghosh, Mita <[Ghosh.Mita@epa.gov](mailto:Ghosh.Mita@epa.gov)>; Purify, Johnnie <[Purify.Johnnie@epa.gov](mailto:Purify.Johnnie@epa.gov)>; McGill, Thomas <[Mcgill.Thomas@epa.gov](mailto:Mcgill.Thomas@epa.gov)>; Palmer, Leif <[Palmer.Leif@epa.gov](mailto:Palmer.Leif@epa.gov)>; Gettle, Jeaneanne <[Gettle.Jeaneanne@epa.gov](mailto:Gettle.Jeaneanne@epa.gov)>; Frazer, Brian <[Frazer.Brian@epa.gov](mailto:Frazer.Brian@epa.gov)>; Goodin, John <[Goodin.John@epa.gov](mailto:Goodin.John@epa.gov)>; McDavit, Michael W. <[Mcdavit.Michael@epa.gov](mailto:Mcdavit.Michael@epa.gov)>  
**Subject:** Re: Florida letter

And adding my management too. Thanks Simma for working on this. Let me know how I can help. - Kathy

Sent from my iPhone

On Apr 4, 2019, at 11:12 AM, Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)> wrote:

Ok, great. Yes, we definitely will want your careful review!

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

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**From:** Hicks, Matt  
**Sent:** Thursday, April 4, 2019 11:09 AM  
**To:** Laycock, Kelly <[Laycock.Kelly@epa.gov](mailto:Laycock.Kelly@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; Ghosh, Mita <[Ghosh.Mita@epa.gov](mailto:Ghosh.Mita@epa.gov)>  
**Cc:** Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>; Purify, Johnnie <[Purify.Johnnie@epa.gov](mailto:Purify.Johnnie@epa.gov)>; McGill, Thomas <[Mcgill.Thomas@epa.gov](mailto:Mcgill.Thomas@epa.gov)>; Palmer, Leif <[Palmer.Leif@epa.gov](mailto:Palmer.Leif@epa.gov)>; Gettle, Jeaneanne <[Gettle.Jeaneanne@epa.gov](mailto:Gettle.Jeaneanne@epa.gov)>  
**Subject:** RE: Florida letter

## Ex. 5 Deliberative Process (DP)

I'm copying Leif and Jeaneanne so that they are in the loop as well.

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**From:** Laycock, Kelly  
**Sent:** Thursday, April 4, 2019 10:53 AM  
**To:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; Ghosh, Mita <[Ghosh.Mita@epa.gov](mailto:Ghosh.Mita@epa.gov)>  
**Cc:** Hicks, Matt <[Hicks.Matthew@epa.gov](mailto:Hicks.Matthew@epa.gov)>; Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>; Purify, Johnnie <[Purify.Johnnie@epa.gov](mailto:Purify.Johnnie@epa.gov)>; McGill, Thomas <[Mcgill.Thomas@epa.gov](mailto:Mcgill.Thomas@epa.gov)>  
**Subject:** RE: Florida letter

Just responding to add my management to the email chain so that they're in the loop moving forward.

Kelly Laycock  
Wetlands Regulatory Section  
U.S. Environmental Protection Agency  
61 Forsyth St.  
Atlanta GA, 30303  
phone 404 562 9132

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**From:** Kupchan, Simma  
**Sent:** Thursday, April 4, 2019 10:51 AM  
**To:** Ghosh, Mita <[Ghosh.Mita@epa.gov](mailto:Ghosh.Mita@epa.gov)>  
**Cc:** Hicks, Matt <[Hicks.Matthew@epa.gov](mailto:Hicks.Matthew@epa.gov)>; Laycock, Kelly <[Laycock.Kelly@epa.gov](mailto:Laycock.Kelly@epa.gov)>; Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>  
**Subject:** RE: Florida letter

Thanks again for all of your quick help with this yesterday. Matt found the status paper extremely helpful and enlightening.

## Ex. 5 Deliberative Process (DP)

Happy to chat if you like. Thanks!

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

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**From:** Ghosh, Mita  
**Sent:** Wednesday, April 3, 2019 6:39 PM  
**To:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>  
**Cc:** Hicks, Matt <[Hicks.Matthew@epa.gov](mailto:Hicks.Matthew@epa.gov)>; Laycock, Kelly <[Laycock.Kelly@epa.gov](mailto:Laycock.Kelly@epa.gov)>; Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>  
**Subject:** RE: Florida letter

Simma:

## Ex. 5 Deliberative Process (DP)

# Ex. 5 Deliberative Process (DP)

Mita Ghosh  
Chief, Office of Water Legal Support  
Office of Regional Counsel  
United States Environmental Protection  
Region 4  
404-562-9568

NOTICE: This communication may contain privileged or other confidential information. If you are not the intended recipient, or believe that you have received this communication in error, please do not print, copy, retransmit, disseminate, or otherwise use the information. Also, please indicate to the sender that you have received this communication in error, and delete the copy you received.

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**From:** Kupchan, Simma  
**Sent:** Wednesday, April 3, 2019 4:24 PM  
**To:** Hicks, Matt <[Hicks.Matthew@epa.gov](mailto:Hicks.Matthew@epa.gov)>; Laycock, Kelly <[Laycock.Kelly@epa.gov](mailto:Laycock.Kelly@epa.gov)>; Ghosh, Mita <[Ghosh.Mita@epa.gov](mailto:Ghosh.Mita@epa.gov)>; Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>  
**Subject:** RE: Florida letter

David's language:

# Ex. 5 Deliberative Process (DP)

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

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**From:** Hicks, Matt  
**Sent:** Wednesday, April 3, 2019 3:47 PM  
**To:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; Laycock, Kelly <[Laycock.Kelly@epa.gov](mailto:Laycock.Kelly@epa.gov)>; Ghosh, Mita <[Ghosh.Mita@epa.gov](mailto:Ghosh.Mita@epa.gov)>; Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>  
**Subject:** RE: Florida letter

Let's use my conference line: **Ex. 6 Personal Privacy (PP)**

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**From:** Kupchan, Simma  
**Sent:** Wednesday, April 3, 2019 2:36 PM

**To:** Hicks, Matt <[Hicks.Matthew@epa.gov](mailto:Hicks.Matthew@epa.gov)>; Laycock, Kelly <[Laycock.Kelly@epa.gov](mailto:Laycock.Kelly@epa.gov)>; Ghosh, Mita <[Ghosh.Mita@epa.gov](mailto:Ghosh.Mita@epa.gov)>; Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>

**Subject:** RE: Florida letter

Great. How about we talk at 4:15 to quickly run through the regs. Whoever would like to join is welcome, but I'll let you all decide if you think you need to be there. I'd like to finish by 4:45.

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

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**From:** Hicks, Matt

**Sent:** Wednesday, April 3, 2019 1:55 PM

**To:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; Laycock, Kelly <[Laycock.Kelly@epa.gov](mailto:Laycock.Kelly@epa.gov)>; Ghosh, Mita <[Ghosh.Mita@epa.gov](mailto:Ghosh.Mita@epa.gov)>; Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>

**Subject:** RE: Florida letter

I like your idea about formatting.

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**From:** Kupchan, Simma

**Sent:** Wednesday, April 3, 2019 1:40 PM

**To:** Hicks, Matt <[Hicks.Matthew@epa.gov](mailto:Hicks.Matthew@epa.gov)>; Laycock, Kelly <[Laycock.Kelly@epa.gov](mailto:Laycock.Kelly@epa.gov)>; Ghosh, Mita <[Ghosh.Mita@epa.gov](mailto:Ghosh.Mita@epa.gov)>; Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>

**Subject:** RE: Florida letter

This is great. Yes, I think we should be able to get this done pretty quickly.

## Ex. 5 Deliberative Process (DP)

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

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**From:** Hicks, Matt

**Sent:** Wednesday, April 3, 2019 1:34 PM

**To:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; Laycock, Kelly <[Laycock.Kelly@epa.gov](mailto:Laycock.Kelly@epa.gov)>; Ghosh, Mita <[Ghosh.Mita@epa.gov](mailto:Ghosh.Mita@epa.gov)>; Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>

**Subject:** RE: Florida letter

I'm available at 4:00.

## Ex. 5 Deliberative Process (DP)

# Ex. 5 Deliberative Process (DP)

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**From:** Kupchan, Simma

**Sent:** Wednesday, April 3, 2019 1:28 PM

**To:** Laycock, Kelly <[Laycock.Kelly@epa.gov](mailto:Laycock.Kelly@epa.gov)>; Hicks, Matt <[Hicks.Matthew@epa.gov](mailto:Hicks.Matthew@epa.gov)>; Ghosh, Mita <[Ghosh.Mita@epa.gov](mailto:Ghosh.Mita@epa.gov)>; Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>

**Subject:** RE: Florida letter

## Ex. 5 Deliberative Process (DP)

Simma Kupchan

EPA Office of General Counsel

Water Law Office

WJC North Building # 7426Q

202-564-3105

---

**From:** Laycock, Kelly

**Sent:** Wednesday, April 3, 2019 1:11 PM

**To:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; Hicks, Matt <[Hicks.Matthew@epa.gov](mailto:Hicks.Matthew@epa.gov)>; Ghosh, Mita <[Ghosh.Mita@epa.gov](mailto:Ghosh.Mita@epa.gov)>; Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>

**Subject:** RE: Florida letter

I have to leave at 5 but I could join a call before that.

Kelly Laycock

Wetlands Regulatory Section

U.S. Environmental Protection Agency

61 Forsyth St.

Atlanta GA, 30303

phone 404 562 9132

---

**From:** Kupchan, Simma

**Sent:** Wednesday, April 3, 2019 1:07 PM

**To:** Hicks, Matt <[Hicks.Matthew@epa.gov](mailto:Hicks.Matthew@epa.gov)>; Laycock, Kelly <[Laycock.Kelly@epa.gov](mailto:Laycock.Kelly@epa.gov)>; Ghosh, Mita <[Ghosh.Mita@epa.gov](mailto:Ghosh.Mita@epa.gov)>; Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>

**Subject:** FW: Florida letter

See below. I am busy until about 4 – anyone free to talk then, by any chance?

Simma Kupchan

EPA Office of General Counsel

Water Law Office

WJC North Building # 7426Q

202-564-3105

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**From:** Fotouhi, David  
**Sent:** Wednesday, April 3, 2019 12:54 PM  
**To:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>  
**Cc:** Neugeboren, Steven <[Neugeboren.Steven@epa.gov](mailto:Neugeboren.Steven@epa.gov)>; Wehling, Carrie <[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>  
**Subject:** RE: Florida letter

Thanks for tracking all of this down, Simma. I've discussed briefly with Matt, and I don't think a letter along the lines you've described as the acting RA's preferred approach is what Matt is interested in sending.

## Ex. 5 Deliberative Process (DP)

Best,

David

**David Fotouhi**

Principal Deputy General Counsel  
Office of General Counsel  
U.S. Environmental Protection Agency  
Tel: +1 202.564.1976  
[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)

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**From:** Kupchan, Simma  
**Sent:** Tuesday, April 2, 2019 5:21 PM  
**To:** Fotouhi, David <[Fotouhi.David@epa.gov](mailto:Fotouhi.David@epa.gov)>  
**Cc:** Neugeboren, Steven <[Neugeboren.Steven@epa.gov](mailto:Neugeboren.Steven@epa.gov)>; Wehling, Carrie <[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>  
**Subject:** FW: Florida letter

Hi David,

## Ex. 5 Deliberative Process (DP)

# Ex. 5 Deliberative Process (DP)

I'd be happy to discuss further. Thanks for your attention in the meantime.

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

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**From:** Fotouhi, David  
**Sent:** Monday, April 1, 2019 10:14 AM  
**To:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; Neugeboren, Steven  
<[Neugeboren.Steven@epa.gov](mailto:Neugeboren.Steven@epa.gov)>; Wehling, Carrie <[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>; Wade, Alexis



<Wade.Alexis@epa.gov>

**Subject:** RE: Florida letter

Hi, Simma. That timing works for me. Is your plan to float this idea to the team in R4 today so that they can provide their views on the call tomorrow?

**David Fotouhi**

Principal Deputy General Counsel  
Office of General Counsel  
U.S. Environmental Protection Agency  
Tel: +1 202.564.1976  
[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)

---

**From:** Kupchan, Simma  
**Sent:** Monday, April 1, 2019 10:11 AM  
**To:** Fotouhi, David <[Fotouhi.David@epa.gov](mailto:Fotouhi.David@epa.gov)>; Neugeboren, Steven <[Neugeboren.Steven@epa.gov](mailto:Neugeboren.Steven@epa.gov)>; Wehling, Carrie <[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>; Wade, Alexis <[Wade.Alexis@epa.gov](mailto:Wade.Alexis@epa.gov)>  
**Subject:** RE: Florida letter

Hi David,

I will discuss Matt's proposal with Region 4. Would it be ok if I got back to you tomorrow afternoon (we have a regularly scheduled call with all of the key Regional players tomorrow morning), or would you like to move faster than that?

Thanks,

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

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**From:** Fotouhi, David  
**Sent:** Monday, April 1, 2019 10:03 AM  
**To:** Neugeboren, Steven <[Neugeboren.Steven@epa.gov](mailto:Neugeboren.Steven@epa.gov)>; Wehling, Carrie <[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; Wade, Alexis <[Wade.Alexis@epa.gov](mailto:Wade.Alexis@epa.gov)>  
**Subject:** Florida letter

## Ex. 5 Deliberative Process (DP)

Could you all talk to folks in R4 to gauge whether we could represent this in a letter to the State?

**David Fotouhi**

Principal Deputy General Counsel  
Office of General Counsel  
U.S. Environmental Protection Agency  
Tel: +1 202.564.1976  
[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)

